



3. Execution of the Writ is **STAYED** for one hundred eighty (180) days from the date of this Order to permit the Commonwealth to commence a new trial on all of petitioner's counts of conviction.<sup>1</sup> Because all counts of petitioner's conviction were compromised by the improper jury instruction on reasonable doubt, all counts must be retried. In the event a new trial is not commenced within the time specified, the writ of *habeas corpus* shall issue, and the Commonwealth shall vacate petitioner's conviction;

4. A certificate of appealability is **DENIED** on all of petitioner's claims other than the Federal Due Process and Sixth Amendment claims concerning the jury instruction on reasonable doubt. With respect to all such claims as to which the writ is denied a certificate of appealability will not issue because reasonable jurists would not debate (a) this Court's decision that the petition does not state a valid claim of the denial of a constitutional right, or (b) the propriety of this Court's procedural rulings with respect to all such claims. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

**BY THE COURT:**

/s/ **Hon. Jan E. DuBois**

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**DuBOIS, JAN E., J.**

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<sup>1</sup> Petitioner was convicted of murder of the first degree and criminal conspiracy to commit murder for the shooting death of Jimmy Jamal Moody, aggravated assault for the shooting of Justun Mershon, carrying a firearm without a license, carrying a firearm on the public streets of Philadelphia, and possession of an instrument of crime. N.T. Jan. 8, 2010, pp. 237-40; Commonwealth v. Shields, 23 A.3d 1087 (Table), No. 440 EDA 2010, p. 3, n.1 (Pa. Super. Jan. 21, 2011) (unpublished memorandum).